

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6697

BILL NUMBER: HB 1230

NOTE PREPARED: Mar 8, 2010

BILL AMENDED: Feb 18, 2010

SUBJECT: Grain Buyers and Grain Indemnity Program; Seeds.

FIRST AUTHOR: Rep. Pearson

FIRST SPONSOR: Sen. Alting

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: *Grain Buyers and Warehouse Licensing and Bonding Law:* This bill makes certain changes in the grain buyers and warehouse licensing and bonding law, including the following: (1) eliminates an exception under which a person who buys less than 50,000 bushels of grain annually or who buys grain for the sole purpose of feeding the person's own livestock or poultry and derives a major portion of the person's income from selling that livestock or poultry is not subject to the requirements of the law for grain buyers; (2) authorizes the Director of the Grain Buyers and Warehouse Licensing Agency (Agency) to require a grain buyer offering deferred pricing, delayed payments, or contracts linked to the commodity futures or commodity options market in connection with a grain purchase to document the agreement in writing not more than 21 days after delivery; (3) requires the Director of the Agency to be a member of national grain regulatory organizations; (4) eliminates an exception under which a person is not required to be licensed if the person does not operate a facility used to store grain for hire, purchases less than 50,000 bushels of grain per year or uses all grain purchased for the production of the person's own livestock or poultry, and does not purchase grain by offering deferred pricing, delayed payment, or contracts that are linked to the commodity futures or commodity options market; and (5) provides that a depositor who does not present a claim at the hearing held by the director of the Agency concerning a possible shortage may bring a claim to the Agency within 15 days after the conclusion of the hearing.

Grain Indemnity Program Law: The bill makes certain changes in the grain indemnity program law, including the following: (1) alters the definitions of the terms "claimant", "deferred pricing", "failure", "grain buyer", "warehouse", and "warehouse operator"; and (2) provides that, in determining the amount of compensation to which a claimant who incurred a financial loss due to the failure of a grain buyer is entitled, the compensable part of the claimant's loss is to be reduced by all credits and offsets and any producer premium that should have been due on the sale of the grain.

The bill repeals provisions: (1) defining a "valid claim"; (2) concerning a grain buyer's registration with the board of the Grain Indemnity Corporation; (3) authorizing inspection of the books and records of a registered grain buyer to confirm compliance with the law; (4) excluding a producer from protection under the grain indemnity program under certain circumstances; and (5) providing that the claim of a claimant who incurred a storage loss due to the failure of a warehouse operator is valid only if brought within one year after publication of notice of the grain buyer's failure.

The bill requires the governing body of the Indiana Grain Indemnity Corporation to hold a meeting in July and to certify at that meeting the amount of money in the Indiana Grain Indemnity Fund on June 30. (Current law requires the governing body to hold a meeting in May and certify the amount of money in the fund on May 1.)

Seeds: The bill establishes seed labeling requirements for cool season lawn and turf grasses. It allows the Seed Commissioner to issue a special use permit for use of seeds of certain plant species for the purpose of research, development, production, or education. It allows the Seed Commissioner to adopt rules establishing certain fees and civil fines. It removes certain statutory fees on July 1, 2011. It reduces the number of sales reports that must be filed each year. The bill also prohibits: (1) using relabeling stickers that do not contain certain information; and (2) relabeling a seed lot using stickers more than once. It requires that rules for certain fees be adopted before July 1, 2011.

Effective Date: Upon passage; July 1, 2010; July 1, 2011.

Explanation of State Expenditures: *Indiana Grain Buyers and Warehouse Licensing Agency:* The Indiana Grain Buyers and Warehouse Licensing Agency may experience increased administrative costs due to the bill's provisions. The Agency's existing resources should be sufficient to implement these changes.

Additionally, this bill requires the Director and the Director's designee of the Indiana Grain Buyers and Warehouse Licensing Agency to become members of the Association of Grain Regulatory Officials. There are membership fees of \$200 for state, federal, or other government agencies. This provision reflects current practice, and so should not be an additional expense to the Agency.

(Revised) *Special Use Permit for Noxious Weed Seeds.* The bill provides that the state Seed Commissioner must issue a written special use permit to a person to use a prohibited noxious weed seed or a restricted noxious weed seed for purposes of research, development, production, or education. The Seed Commissioner may grant a special use permit, condition a special use permit, or deny a special use permit. The Seed Commissioner may revoke a special use permit at any time if it appears the permit holder is not complying with the conditions established under the special use permit. This provision should have no significant impact.

(Revised) *Seed Commissioner.* This bill allows the Seed Commissioner to adopt rules establishing certain fees and civil fines. The bill requires that rules for tags and label fees be adopted before July 1, 2011. The bill's requirements are within the Seed Commissioner's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Seed Labeling: The bill provides that certain information be included on the label for the following seeds: cool season lawn and turf grasses; vegetable seeds in packets as prepared for use in home gardens or household plantings; vegetable seeds in preplanted containers, mats, tapes, or other planting devices

in containers not exceeding one pound; and vegetable seeds in containers exceeding one pound. This provision should have no significant impact.

Explanation of State Revenues: *Indiana Grain Buyers and Warehouse Licensing Agency:* Any increase in revenue from licensing fees is expected to be minimal. The provisions of this bill that would affect licensing fees are meant to reflect current practice and to resolve inconsistencies in the statute.

(Revised) *Fees and Fines Established by Seed Commissioner.* This bill allows the Seed Commissioner to adopt rules establishing fees that are necessary to cover the costs of inspections, analysis, and publications. Also, the bill allows the Seed Commissioner to adopt rules establishing civil fines for failure to submit a report of sales and failure to pay the fee required. The amount of revenue that will be generated will depend on rules adopted by the Seed Commissioner.

Additionally, the bill provides that reports of sales and inspection fees are payable semiannually. Currently, both are due quarterly. Decreasing the number of required reports from four to two and decreasing the number of times fees must be paid could also decrease delinquencies. Seeds are generally sold in bulk twice a year. If a distributor does not sell seeds during a particular quarter, under existing law, the distributor would still be required to report.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Grain Buyers and Warehouse Licensing Agency; State Seed Commissioner at Purdue University.

Local Agencies Affected:

Information Sources: Sarah Simpson, Indiana State Department of Agriculture, 317-460-6380; Association of Grain Regulatory Officials; John Baugh, Agriculture Services and Regulations, Purdue University, 765-427-5063.

Fiscal Analyst: Jessica Harmon, 317-232-9854